

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CIVIL NO. 2:01CV19

UNITED STATES *ex rel.*, KAREN
T. WILSON,

Plaintiffs,

Vs.

ORDER

GRAHAM COUNTY SOIL & WATER
CONSERVATION DISTRICT;
GRAHAM COUNTY; CHEROKEE
COUNTY SOIL & WATER
CONSERVATION DISTRICT;
RICHARD GREENE, in his official
capacity; WILLIAM TIMPSON, in his
official capacity; KEITH ORR, in his
official capacity; RAYMOND
WILLIAMS, in his official capacity;
DALE WIGGINS, in his official
capacity; GERALD PHILLIPS, in his
official capacity; ALLEN DEHART, in
his official capacity; and LYNN
CODY, in his official capacity,

Defendants.

THIS MATTER is before the Court *sua sponte*.

On June 13, 2006, the undersigned entered an Order which identified errors and omissions in the action and provided the Plaintiff with an opportunity to clarify or correct the same. The Order specifically provided:

On or before fifteen days from entry of this Order, the Plaintiff shall do one of the following: (1) notify the Court by written filing that it dismisses the action against Defendants Millsaps, Tipton, Newton and/or Wood; or (2) file a motion for leave to file an amended complaint which shall contain specific allegations as to one or more of these defendants and attach a copy of the proposed amended complaint.

Order, filed June 13, 2006, at 4. The Plaintiff has failed to respond, that is, she neither notified the Court of an intention to dismiss nor moved for leave to file an amended complaint. As a result, the claims against these Defendants in their official capacities are dismissed. Since the claims against them in their individual capacities were previously dismissed, these Defendants are no longer present in the case. With this Order, their names are hereby removed from the caption.

The Order further provided:

On or before fifteen days from entry of this Order, the Plaintiff shall notify the Court by written filing whether it proceeds against the following Defendants in their individual capacity, official capacity or both: Greene, Timpson, Orr, Phillips and DeHart.

Id. No response to the Order having been filed, the Court orders that the claims against these Defendants may go forward only in their official capacities. The caption of the case shall be amended to so provide.

Finally, the Order also provided:

On or before fifteen days from entry of this Order, the Plaintiff shall notify the Court by written filing of the statutory or substantive authority for proceeding against Defendants Jerry Williams and Billy Brown as individuals.

Id., at 5. No response to the Order having been received, these Defendants are dismissed from the action and their names shall be removed from the caption.

IT IS THEREFORE, ORDERED that the caption shall be amended to reflect that the claims against Defendants Raymond Williams, Lynn Cody, and Dale Wiggins are brought against them only in their official capacities.

IT IS FURTHER ORDERED that Defendants Lloyd Millsaps, Bill Tipton, C.B. Newton and Eddie Wood are hereby **DISMISSED** from this action and the caption of the case shall be amended to so reflect.

IT IS FURTHER ORDERED that the claims against Defendants Richard Greene, Williams Timpson, Keith Orr, Gerald Phillips and Allen DeHart are brought in their official capacities only and the caption shall be amended to so reflect.

IT IS FURTHER ORDERED that Defendants Jerry Williams and Billy Brown are hereby **DISMISSED** from the action and the caption shall be amended to so reflect.

Signed: July 11, 2006

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

